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Pro Hac Vice Admission Anticipated

Attorneys for David J. Richards

UNITED STATES BANKRUPTCY COURT
DISTRICT OF UTAH, CENTRAL DIVISION

IN RE:

CS MINING, LLC,

Debtor.

Case No. 16-24818 WTT

Chapter 11

(Filed Electronically)

**APPLICATION OF DAVID J. RICHARDS FOR ALLOWANCE OF ADMINISTRATIVE
EXPENSE PRIORITY CLAIM PURSUANT TO 11 U.S.C. §§ 503(b)(1)(A) AND 507(a)(2)**

David J. Richards (“Mr. Richards”), by and through his undersigned counsel, hereby submits this Application (the “Application”) for the allowance and payment, as an administrative expense priority claim, of all unpaid post-petition amounts due and owing for advisory related

services rendered by Mr. Richards during the course of this bankruptcy proceeding. In support thereof, Mr. Richards respectfully represents as follows:

JURISDICTION AND VENUE

1. On August 4, 2016 (the “Relief Date”), the Court entered the Order for Relief [Doc. No. 130] under chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”). Since the Relief Date, CS Mining, LLC (the “Debtor” or “CS Mining”) has continued to operate as a debtor in possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A). The statutory basis for the requested relief is 11 U.S.C. §§ 503(b)(1)(A) and 507(a)(2).

3. The Debtor has sought approval of the sale of substantially all of its assets to Tamra Mining Company, LLC (“Tamra Mining”) with an anticipated closing date of August 31, 2017 (the “Closing Date”).¹

BACKGROUND AND BASIS FOR RELIEF

4. On October 31, 2011, CS Mining entered into that certain letter agreement (the “Letter Agreement”) with Clarity Management, L.P. and Empire Advisors, LLC (“Empire”) (Clarity Management L.P. and Empire are collectively referred to as the “Advisors”), whereby the

¹ The hearing to consider the approval of the auction sale of substantially all of the Debtor’s assets is set for August 17, 2017.

Advisors agreed to provide various services to CS Mining relative to corporate and financial strategy, potential acquisitions and divestitures, financial management of CS Mining and various other initiatives (collectively, the “Services”). A copy of the Letter Agreement is attached hereto as Exhibit 1.

5. Mr. Richards, as the principal of Empire, and pursuant to the Letter Agreement, agreed to devote significant time and resources to a chapter 11 proceeding.²

6. Pursuant to the Letter Agreement, each Advisor or its designee is to be paid a quarterly management fee equal to \$50,000 until termination of the agreement. The sale and anticipated closing of substantially all of the assets to Tamra on August 31, 2017 constitutes the first event of termination to occur under the Letter Agreement. See Letter Agreement, Section C – “Term and Termination”.

7. Since the Relief Date, Mr. Richards has continued to provide significant services to the Debtor pursuant to the Letter Agreement, which has had a considerable and beneficial impact to the Debtor’s post-petition operations of its business. During the course of the bankruptcy, Mr. Richards attended regular board meetings, special board meetings, read various materials and provided comment and guidance to the company. All such post-petition services have gone unpaid.

8. As a result, pursuant to 11 U.S.C. §§ 503(b)(1)(A) and 507(a)(2), Mr. Richards is entitled to the allowance and payment of \$199,623.00 as an administrative expense priority.³

² Mr. Richards is Empire’s designee as permitted under Section B of the Letter Agreement.

³ This administrative expense claim has been prorated for the period of August 4, 2016 through the Closing Date.

9. Accordingly, Mr. Richards hereby asserts an administrative expense priority claim, allowable and payable pursuant to §§ 503(b)(1)(A) and 507(a)(2), in the total amount of \$199,623.00.

WHEREFORE, Mr. Richards moves this Court for entry of an Order allowing an administrative expense priority claim in the amount of \$199,623.00 and directing the Debtor to pay such amount to Mr. Richards.

DATED this 17th day of August, 2017.

SMITH KNOWLES, P.C.

/s/ M. Darin Hammond

M. Darin Hammond

Attorneys for David J. Richards

- and -

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Pro Hac Vice Admission Anticipated

CERTIFICATE OF SERVICE
BY NOTICE OF ELECTRONIC FILING (CM/ECF)

I hereby certify that on the 17th day of August, 2017, I electronically filed the foregoing, **APPLICATION OF DAVID J. RICHARDS FOR ALLOWANCE OF ADMINISTRATIVE EXPENSE PRIORITY CLAIM PURSUANT TO 11 U.S.C. §§ 503(b)(1)(A) AND 507(a)(2)**, with the United States Bankruptcy Court for the District of Utah by using the CM/ECF system. I further certify that the parties of record in this case, as identified below, are registered CM/ECF users and will be served through the CM/ECF system:

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- **P. Matthew x2Cox** bankruptcy_pmc@scmlaw.com
- **Gale K. x6Francis** txbk13@utah.gov

CERTIFICATE OF SERVICE
BY MAIL, OTHER

I hereby certify that on the 17th day of August, 2017, I caused to be served a true and correct copy of the foregoing, **APPLICATION OF DAVID J. RICHARDS FOR ALLOWANCE OF ADMINISTRATIVE EXPENSE PRIORITY CLAIM PURSUANT TO 11 U.S.C. §§ 503(b)(1)(A) AND 507(a)(2)**, as follows:

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Hogan Lovells US LLLP
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Washington, DC 20004

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FTI Consulting, Inc.
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Attn: David Beckman
Denver, CO 80202

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Los Angeles, CA 90067

Jason V. Stitt

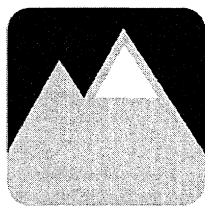
Keating Muething & Klekamp PLL
One East Fourth Street
Suite 1400
Cincinnati, OH 45202

/s/ M. Darin Hammond

M. Darin Hammond

Attorneys for David J. Richards

Exhibit "1"



CS MINING

October 31, 2011

Clarity Management, L.P.
100 North Crescent Drive
Beverly Hills, California 90210
Fax: (310) 432-5000
Attn: Clinton W. Walker

Empire Advisors, LLC
500 South Front St., Suite 1200
Columbus, Ohio 43215
Fax: (888) 846-2353
Attn: David J. Richards

Re: Management Fees

Gentlemen:

In connection with the recent investment made by Skye Mineral Partners, LLC (“Investor”) in CS Mining, LLC (the “Company”), the Company, Clarity Management, L.P. (“Clarity”) and Empire Advisors, LLC (“Empire”, and collectively with Clarity the “Advisors”; each of Empire and Clarity may be referred to individually as an “Advisor”) agree to the terms and obligations of this letter agreement (this “Agreement”). The contractual rights granted to the Advisors herein are in addition to any rights to expense reimbursement and other rights specifically provided to the Investor, Advisors or their Members pursuant to the respective operating agreements or organizational documents of Investor and Company.

The Company hereby retains the Advisors to provide or cause to be provided, as mutually agreed by the Advisors and the board of managers of the Company, service on, and advice to the board of management and the management of the Company regarding corporate and financial strategy, potential acquisitions and divestitures, the financial management of the Company and other initiatives (the “Services”).

A. CLOSING FEES AND COSTS.

As previously agreed, promptly following the execution of this Agreement, the Company shall pay each Advisor or its principals or designees its fees for services rendered in connection with the acquisition of substantially all the assets of Western Utah Copper Company and Copper King Mining Corporation (the “Acquisition”) and the associated transactions, the approximate amount of which are set forth on Exhibit A attached hereto and incorporated herein

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MAILING:
P.O. Box 608
MILFORD, UT 84751

October 31, 2011

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by this reference. Such fee shall be paid by wire transfer of immediately available funds to the Advisor or its designees, or at Advisor's election, which amount may be contributed as a capital contribution to Investor or Company in accordance with Advisors' election set forth on Exhibit A in the right column. In addition, the Company shall reimburse each Advisor or its designees, by wire transfer of immediately available funds, its reasonable other fees, costs and expenses (including the reasonable fees and expenses of accountants, attorneys and other advisors retained by the Advisor) incurred in connection with the foregoing and the work associated with the Chapter 11 bankruptcy process, the Acquisition and related transactions.

B. QUARTERLY MANAGEMENT FEE; EXPENSE REIMBURSEMENT.

During the term of this Agreement, each Advisor or its designee shall be paid a quarterly management and monitoring fee for the Services equal to \$50,000 by the Company commencing as of the closing date of the Acquisition, and continuing each calendar quarter thereafter. An initial payment of \$50,000 will be made by the Company in respect of the quarter ended December 31, 2011. Thereafter, the fee shall be payable in arrears on a quarterly basis by wire transfer of immediately available funds. The fee (and any other compensation or reimbursement specified in this Agreement) will be payable by the Company regardless of the extent of Services requested by the Company pursuant to this Agreement, and regardless of whether or not the Company requests the relevant Advisor to provide any such Services. In addition, the Company shall reimburse each Advisor for all costs and expenses incurred in connection with Services rendered hereunder. Such costs and expenses shall be reimbursed promptly by the Company upon submission of a customary expense report.

C. MISCELLANEOUS.

Term and Termination. This Agreement shall be in effect from the date hereof until terminated as provided in this paragraph. This Agreement will terminate immediately upon the earliest to occur of: (i) 30 days written notice by the Advisor of its intention to terminate this Agreement; (ii) the closing of the Company's initial firmly underwritten public offering of securities pursuant to an effective registration statement filed under the Securities Act of 1933, as amended; or (iii) the liquidation, dissolution, or winding up of the Company; or (v) the date on which no Investor owns any securities or other interests in the Company.

Indemnification. The Company shall indemnify and hold harmless the Advisors, each of their controlling persons and each director, officer, manager and employee thereof from and against any and all losses, claims, liabilities, suits, costs, damages and expenses (including attorneys' fees) arising from their performance hereunder, except as a result of their gross negligence or willful misconduct.

Independent Contractor. The Company and each Advisor agrees and acknowledges that the Advisors and each of its controlling persons and each director, officer, manager and employee thereof shall perform services hereunder as independent contractors, retaining control over and responsibility for their own operations and personnel. Neither the Advisors nor any of their controlling persons, directors, officers, managers or employees shall be considered employees or agents of the Company as a result of this Agreement or the services

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October 31, 2011

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provided hereunder.

Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without reference to principles of conflicts of law.


Counterparts. This Agreement may be executed in counterparts and signature pages may be delivered by facsimile, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

CS MINING, LLC


By: SKYE MINERAL PARTNERS, LLC
Title: Member

By: SKYE MINERAL INVESTORS, LLC
Title: Member

By: EMPIRE ADVISORS, LLC
Title: Manager

By: 
David J. Richards, President

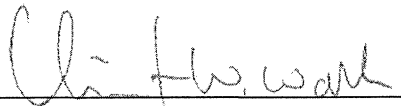
By: CLARITY COPPER, LLC
Title: Member

By: 
Clinton W. Walker, Manager


ACKNOWLEDGED AND AGREED:

ADVISORS:

CLARITY MANAGEMENT, L.P.

By: 
Clinton W. Walker, General Partner

EMPIRE ADVISORS, LLC

By: 
David J. Richards, President

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Exhibit A

FEE SUMMARY

Investment Banking and Chapter 11 Fees	Amount	Amount Rolled Into SMP Equity
Chapter 11 Work (Allocation)	\$ 425,000.00	\$ 139,377.67
Investment Banking (Allocation)	\$ 716,666.66	\$ 708,333.33
Total	\$ 1,141,666.66	\$ 847,711.00

FEE ALLOCATION DETAIL

Chapter 11 Work (Allocation)

David V. Richards	\$ 125,000.00	\$ 50,000.00
David J. Richards	\$ 200,000.00	\$ 89,377.67
Clint W. Walker	\$ 100,000.00	\$ -
Total	\$ 425,000.00	\$ 139,377.67

Investment Banking (Allocation)

Empire Advisors, LLC	\$ 358,333.33	\$ 358,333.33
Clarity Management, L.P.	\$ 358,333.33	\$ 350,000.00
Total	\$ 716,666.66	\$ 708,333.33